

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

|                                |   |                            |
|--------------------------------|---|----------------------------|
| CHESTER H. TRIDLE, ET AL.      | § |                            |
| Vs.                            | § | CIVIL ACTION NO. 9:07CV213 |
| UNION PACIFIC RAILROAD COMPANY | § |                            |

ORDER

On March 28, 2008, Defendant filed a Motion to Transfer Venue, seeking a transfer of all claims to the District of Nebraska. In light of the Fifth Circuit's recent order granting a petition for rehearing en banc regarding the decision of *In re Volkswagen*, 506 F.3d 376 (5<sup>th</sup> Cir.2007),<sup>1</sup> United States Magistrate Judge Judith Guthrie issued an [Order](#) staying the above-styled lawsuit pending the en banc decision from the Fifth Circuit in the matter of *In re Volkswagen*. On April 24, 2008, Plaintiffs filed a Motion for Reconsideration of Magistrate Judge's Order Staying Plaintiffs' Action ([document #62](#)).

Plaintiffs seek reconsideration by the district judge of Judge Guthrie’s Order pursuant to [28 U.S.C. § 636\(b\)\(1\)\(A\)](#) and the Local Rules of Court for the Assignment of Duties to United States Magistrate Judges, Rule 4(A). Pursuant to [28 U.S.C. § 636\(b\)\(1\)\(A\)](#) and the Local Rules of Court for the Assignment of Duties to United States Magistrate Judges, Rule 4(A), a district judge may set aside all or part of a magistrate judge’s order on a pretrial matter if it is shown that the magistrate

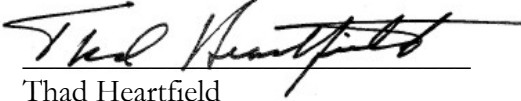
<sup>1</sup>See *In re Volkswagen*, No. 07-40058 (5<sup>th</sup> Cir. Feb. 14, 2008).

judge's order is clearly erroneous or contrary to law.

Having reviewed the pleadings, I find that Plaintiffs have not shown that Judge Guthrie's Order staying the case pending the en banc decision from the Fifth Circuit in the matter of *In re Volkswagen* is clearly erroneous or contrary to law. I further find that the decision in *In re Volkswagen* is controlling and the Magistrate Judge correctly ruled that this matter should be stayed pending the outcome of that case. It is therefore

**ORDERED** that Plaintiffs' Motion for Reconsideration of Magistrate Judge's Order Staying Plaintiffs' Action ([document #62](#)) is **DENIED**.

**SIGNED** this the 19 day of May, 2008.

  
Thad Heartfield  
United States District Judge